

DEPARTMENT OF STATE REVENUE

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Letter of Findings Number: 04-20120545
Use Tax
For the Years 2008-2010

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ISSUE**I. Use Tax—Manufacturing Exemption.**

Authority: IC § 6-2.5-5-3; [45 IAC 2.2-5-8](#).

Taxpayer protests the Department's assessment of use tax on a palletizer.

STATEMENT OF FACTS

Taxpayer is a corporation doing business in Indiana. The Indiana Department of Revenue ("Department") audited Taxpayer and determined that Taxpayer did not self-assess use tax on various items. The Department assessed use tax on these items. Taxpayer protested a portion of the assessment, the Department conducted an administrative hearing, and this Letter of Findings results. Additional facts will be supplied as necessary.

I. Use Tax—Manufacturing Exemption.**DISCUSSION**

Taxpayer protests the assessment of use tax on a palletizer. Taxpayer states that it "manufacture[s] plastic containers, drums, and pails that have a variety of applications across many industries." Taxpayer manufactures the items that it sells. Taxpayer uses a palletizer to place and stack its plastic products onto pallets. After being placed on the pallets, the pallets are then shrink-wrapped. The issue is whether Taxpayer's palletizer is used directly in Taxpayer's production process.

IC § 6-2.5-5-3(b) states in relevant part, "[T]ransactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property."

In addition, [45 IAC 2.2-5-8\(c\)](#) states:

The state gross retail tax does not apply to purchases of manufacturing machinery, tools, and equipment to be directly used by the purchaser in the production process provided that such machinery, tools, and equipment are directly used in the production process; i.e., they have an immediate effect on the article being produced. Property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process which produces tangible personal property.

Taxpayer cites to [45 IAC 2.2-5-8\(d\)](#), which states: "'Direct use' begins at the point of the first operation or activity constituting part of the integrated production process and ends at the point that the processing or refining has altered the item to its completed form, including packaging, if required." (Emphasis added). Taxpayer further cites to [45 IAC 2.2-5-8\(c\)](#), example 2(D), which states:

A bottling and packaging process, which includes equipment such as case and bottle conveyors used during the filling operations, equipment to fill the bottles with product and to place labels on the bottles, and case filling equipment and case palletizers. The exempt production process begins after the bottles are introduced onto the bottle conveyors for the filling step of production and ends with the final packaging of the product onto the case palletizers.

The Department understands the requests of Taxpayer's customers that the plastic containers produced be palletized and shrink-wrapped. However, the production of plastic equipment terminates at the juncture at which the containers are in their final form. The packaging of the containers is not required in this case but rather is done as a post-production step due to the amount of the product sold to Taxpayer's customers. As such, the palletizing and packaging are not an "essential and integral part" of the plastic container manufacturing process and thus the palletizer does not qualify for the statutory exemption.

FINDING

Taxpayer's protest is respectfully denied.

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